



## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

[FWS–R3–ES–2021–0005; FXES11140300000-212]

**Draft Environmental Assessment and Proposed Habitat Conservation Plan; Receipt of an Application for an Incidental Take Permit, Habitat Conservation Plan for the Hine’s Emerald Dragonfly, Blanding’s Turtle, Spotted Turtle, Leafy Prairie Clover, and Lakeside Daisy, Will County, Illinois**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability; request for comment and information.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, have received an application from Hanson Aggregates Midwest, Inc. d/b/a Hanson Material Service (applicant) for an incidental take permit (ITP) under the Endangered Species Act. We make available for public comment the applicant’s habitat conservation plan (HCP) for continued limestone surface mining, submitted in support of the ITP application, for the Hine’s emerald dragonfly, Blanding’s turtle, spotted turtle, leafy prairie clover, and Lakeside Daisy (covered species). If approved, the ITP would be for a 30-year period and would authorize the incidental take of an endangered species, the Hine’s emerald dragonfly, and species petitioned for Federal listing that are listed as endangered by the State of Illinois,

the Blanding's turtle and spotted turtle. We also announce the availability of a draft environmental assessment, which has been prepared in response to the permit application in accordance with the requirements of the National Environmental Policy Act. We request public comment on the application and associated documents.

**DATES:** We will accept comments received or postmarked on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

**ADDRESSES: *Document availability:*** Electronic copies of the documents this notice announces, along with public comments received, will be available online in Docket No. FWS-R3-ES-2021-0005 at <http://www.regulations.gov>.

***Comment submission:*** In your comment, please specify whether your comment addresses the proposed HCP, draft EA, or any combination of the aforementioned documents, or other supporting documents. You may submit written comments by one of the following methods:

- *Online:* <http://www.regulations.gov>. Search for and submit comments on Docket No. FWS-R3-ES-2021-0005.
- *U.S. mail:* Send comments to Public Comments Processing, Attn: Docket No. FWS-R3-ES-2021-0005; U.S. Fish and Wildlife Service; 5275 Leesburg Pike, MS: PRB/3W; Falls Church, VA 22041-3803.

**FOR FURTHER INFORMATION CONTACT:** Louise Clemency, Field Supervisor, Chicago Ecological Services Field Office, U.S. Fish and Wildlife Service, 230 S. Dearborn, Suite 2938, Chicago, IL 60604-1507; telephone: 1-312-485-9337.

Individuals who are hearing impaired or speech impaired may call the Federal Relay Service at 1-800-877-8339 for TTY assistance.

**SUPPLEMENTARY INFORMATION:** We, the U.S. Fish and Wildlife Service (Service), have received an application from Hanson Aggregates Midwest, Inc. d/b/a Hanson Material Service (applicant) for an incidental take permit (ITP) under the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), for its habitat conservation plan (HCP) for the Hine's emerald dragonfly, Blanding's turtle, spotted turtle, leafy prairie clover, and lakeside daisy (project or HCP). The applicant's mining operation is located in Will County, Illinois and would consist of 49.6 acres of impacts to covered species habitat. The applicant has prepared a habitat conservation plan that describes their continued limestone surface mining operation and measures that the applicant would implement to avoid, minimize, and mitigate incidental take of the Hine's emerald dragonfly, Blanding's turtle, and spotted turtle. The HCP proposes to restore, enhance, and maintain 354 acres of covered species habitat on the 519 acres of land that will be protected in perpetuity by a deed restriction that may be converted to a conservation easement if a qualified entity agrees to hold the protected acreage. If approved, the ITP would be for a 30-year period and would authorize the incidental take of an endangered species, the Hine's emerald dragonfly (*Somatochlora hineana*), and species petitioned for Federal listing that are listed as endangered by the State of Illinois, the Blanding's turtle (*Emydoidea blandingii*) and spotted turtle (*Clemmys guttata*). The applicant has prepared a HCP that describes the actions and measures that the applicant would implement to avoid, minimize, and mitigate incidental take of the Hine's emerald dragonfly, Blanding's turtle, and spotted turtle, and impacts to leafy prairie clover and lakeside daisy. We also announce the availability of a draft environmental assessment (EA), which has been prepared in response to the permit application in accordance with the requirements of the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*). We request public comment on the application and associated documents.

## **Background**

Section 9 of the ESA and its implementing regulations prohibit the “take” of animal species listed as endangered or threatened. Take is defined under the ESA as to “harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect “listed animal species,” or to attempt to engage in such conduct” (16 U.S.C. 1538). However, under section 10(a) of the ESA, we may issue permits to authorize incidental take of listed species. “Incidental take” is defined by the ESA as take that is incidental to, and not the purpose of, carrying out an otherwise lawful activity (16 U.S.C. 1539). Regulations governing incidental take permits for endangered and threatened species, respectively, are found in the Code of Federal Regulations at 50 CFR 17.22 and 50 CFR 17.32. Impacts to plants do not fall under the definition of “take,” therefore, the Service cannot authorize incidental take of plants. However, the Service cannot issue an ITP that would jeopardize the continued existence or adversely modify the designated critical habitat of any listed species, including plants, so addressing listed plants in the HCP may be prudent.

## **Applicant's Proposed Project**

The applicant requests a 30-year ITP to take the federally endangered Hine’s emerald dragonfly (*Somatochlora hineana*), and species petitioned for Federal listing that are listed as endangered by the State of Illinois: the Blanding’s turtle (*Emydoidea blandingii*) and spotted turtle (*Clemmys guttata*). The applicant determined that take is reasonably certain to occur incidental to operation of expanded limestone surface mining located in Will County and consisting of 187 acres of surface mining that will have direct impacts to 49.6 acres of covered species habitat. The proposed conservation strategy in the applicant's proposed HCP is designed to avoid, minimize, and mitigate the impacts of

the surface mining expansion on the covered species. The biological goals and objectives are to minimize potential take of Hine's emerald dragonflies, Blanding's turtles, and spotted turtles through on-site minimization measures and to provide habitat conservation measures for Hine's emerald dragonflies, Blanding's turtles, and spotted turtles to offset any impacts from operations of the project. The estimated level of take from the project is 49.6 acres of Hine's emerald dragonfly adult critical habitat, three adult Hine's emerald dragonflies, 12 Blanding's turtles, and two spotted turtles over the 30-year ITP duration. To offset the impacts of the taking of Hine's emerald dragonflies, Blanding's turtles, and spotted turtles, the applicant proposes to avoid potential groundwater-related impacts from quarry dewatering, by instituting operational avoidance measures during the mining process, and implement species habitat maintenance, enhancement or restoration on 354 acres. Additionally, 519 acres of land will be permanently protected by a deed restriction and may be converted to a conservation easement if a qualified entity agrees to hold the protected acreage.

### **National Environmental Policy Act**

The issuance of an ITP is a Federal action that triggers the need for compliance with NEPA. We prepared a draft EA that analyzes the environmental impacts on the human environment resulting from three alternatives: a no-action alternative, the applicant's proposed action, and an early planning mitigation alternative.

### **Next Steps**

The Service will evaluate the permit application and the comments received to determine whether the application meets the requirements of section 10(a) of the ESA. We will also conduct an intra-Service consultation pursuant to section 7 of the ESA to evaluate the effects of the proposed take. After considering the above findings, we will

determine whether the permit issuance criteria of section 10(a)(1)(B) of the ESA have been met. If met, the Service will issue the requested ITP to the applicant.

### **Request for Public Comments**

The Service invites comments and suggestions from all interested parties on the proposed HCP, draft EA and supporting documents during a 30-day public comment period (see **DATES**). In particular, information and comments regarding the following topics are requested:

1. The effects that implementation of any alternative could have on the human environment;
2. Whether or not the significance of the impact on various aspects of the human environment has been adequately analyzed; and
3. Any other information pertinent to evaluating the effects of the proposed action on the human environment including the Hine's Emerald Dragonfly, Blanding's Turtle, and the spotted turtle.

### **Availability of Public Comments**

You may submit comments by one of the methods shown under **ADDRESSES**. We will post on <http://regulations.gov> all public comments and information received electronically or via hardcopy. All comments received, including names and addresses, will become part of the administrative record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can request in your comment that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. All

submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

### **Authority**

We provide this notice under section 10(c) of the ESA (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.22) and the NEPA (42 U.S.C. 4371 *et seq.*) and its implementing regulations (40 CFR 1506.6; 43 CFR Part 46).

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